Ct. No. 26

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F.M.A. 1024 of 2010
With
IA No. CAN 2 of 2015 & CAN 3 of 2019
(Via Video Conference)
Smt. Bharati Singh & Ors.
Vs.
New India Assurance Co. Ltd. & Anr.

Mr. Krishanu Banik ...**For the Appellants/Claimants**

Mr. Sanjay Paul ...**For the Respondent/Insurance Co.**

The appeal is directed against the judgment and award dated August 24, 2006 passed by the learned Additional District Judge, Motor Accident Claims Tribunal, 1st Court, Paschim Midnapore, in M.A.C. Case No. 735 of 2005.

The claim was filed under Section 166 of the Motor Vehicles Act, 1988. The Learned Advocate for the appellants/claimants submits that the learned Tribunal committed error in law while not assessing the monthly income of the deceased Rs.4,500/- instead of Rs.2,500/- on the basis of uncontroverted oral evidence as adduced by the widow of the deceased.

He further submits that the learned Tribunal committed error in law while not granting 40% additional income towards future prospect since the deceased was 33 years old self employed person.

He submits that the learned Tribunal committed error in law while deducting 1/3rd instead of 1/4th income of the deceased towards personal expenses since the deceased leaving four dependants behind him. Mr. Banik further submits that the Learned Tribunal also committed error in law while granting Rs.9,500/- instead of Rs.70,000/- towards general damages.

In reply Mr. Paul, the Learned Advocate for the respondent insurance company submits that the award passed by the learned Tribunal is absolutely just and there is no scope of interference and/or modification of award.

Mr. Paul further submits that the learned Tribunal committed error in law while adopting multiplier 17 instead of 16 since the deceased was 33 years old as per the post mortem report.

Considering the judgments of ***Smt. Sarla Verma & Ors. Vs. Delhi Transport Corporation & Anr.,*** reported in **(2009) 6 SCC 121** and ***National Insurance Company Ltd. Vs. Pranay Sethi & Ors.,*** reported in **(2017) 16 SCC 680** and also following the practice of this Court on the point of monthly income, I find substance in the arguments of the appellants. Since the accident occurred in the year 2005, in a claim under section 166 of the Motor Vehicles Act, 1988, an amount of Rs. 3,000/- per month does not appear to be exorbitant. Appellants are also justified in praying for 40% additional income towards future prospect since the deceased was 33 years old self employed person and deduction towards personal expenses shall be 1/4th instead of 1/3rd as adopted by the tribunal. However, the multiplier shall be 16 instead of 17 as adopted by the tribunal and general damages shall be Rs.70,000/- instead of Rs.9,500/-.

Accordingly, the impugned award is modified and recalculated in the manner as follows:-

Monthly income	**Rs.**	**3,000/-**
Yearly (2500 X 12)	**Rs.**	**36,000/-**
40% Additional Income toward future prospect	**Rs.**	**14,400/-**
Annual Income	**Rs.**	**50,400/-**
1/4th deduction on personal Expenses	**Rs.**	**12,600/-**
Loss of annual dependency	**Rs.**	**37,800/-**

Multiplier 16 (37,800 X 16)	**Rs.6,04,800/-**
General Damages	**Rs. 70,000/-**
Total Compensation	**Rs.6,74,800/-**

Mr. Banik acknowledges that his clients have already received the awarded amount of Rs.3,49,500/-. Accordingly, the balance enhanced sum of Rs.3,25,300/- would become payable to the appellants by the Insurance Company, together with interest assessed at the rate of 6 per cent per annum on and from the date of filing of the claim petition the till payment within a period of 45 days from the date of receipt of the Bank account particulars of the appellants. It is made clear that the payments shall be made by NEFT/RTGS in the same manner and proportion as decided by the Court below.

Learned Counsel for the appellants will forward the bank account details of the appellants within a fortnight from date to the learned Counsel for the Insurance Company.

With the aforesaid directions the instant appeal is disposed of.

In view of disposal of the appeal, connected applications, if any, are also disposed of. The concerned Department is directed to trace out the applications and tag the same with this appeal.

There shall be no further order as to costs.

LCR, if any, may be returned back to the Court below.

Urgent photostat certified copy of this order, if applied for, be given to the parties, upon compliance of all formalities, on priority basis.

(Shekhar B. Saraf, J.)